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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED
MAR 14 2006

RESEARCH PLASTICS, INC.,
a foreign Corporation,

Plaintiff,

v

CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN MICHIGAN

Case No. 98-73544
Honorable Avern Cohn
Honorable Paul J. Komives

FEDERAL PACKAGING CORP.,
an Ohio Corporation,

Defendants.

CARLSON, GASKEY & OLDS P.C.
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JOINT FINAL PRETRIAL ORDER

JURISDICTION

This suit arises under the patent laws of the United States, 35 U.S.C. §1, *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1338. Personal jurisdiction and venue are proper in this Court. Jurisdiction and venue are not contested.

PLAINTIFF'S CLAIMS

1. Federal Packaging Corporation ("Federal") infringes Research Plastics, Inc., ("Research"), United States Patent No. 5,628,433 ("the '433 Patent"), which was issued by the United States Patent Office on May 13, 1997. Federal infringes at least the representative claim 10 of the '433 Patent. Federal has made two caulking tubes that infringe the '433 patent. First, the so-called "old style" rib tube literally infringes the '433 patent and/or infringes under the doctrine of equivalents. The "new style" rib tube infringes the '433 patent claim 10 under the doctrine of equivalents.

2. Federal also infringes Research's United States Patent 5,749,499. The old style tube literally infringes the '499 patent, while the new style tube does not infringe the '499 patent.
3. Research is entitled to either its lost profits or a reasonable royalty for this infringement.
4. Federal's infringement of Research's patents was willful.
5. Federal also made sales of a non-infringing tube, after utilizing the infringing old style tube to convince a customer (Coronado Labs) to purchase Federal's ribless tubes. Research is entitled to lost profits at least for the first year of sales of those tubes.
6. Also, by selling the infringing tubes in competition with Research, and without paying any royalty, Federal has caused Research's price to erode in the marketplace. Research is entitled to its lost profits due to this price erosion.
7. Research is entitled to increased damages and attorneys' fees under 35 USC §284 for Federal's willful infringement.

DEFENDANT'S CLAIMS

- A. The new style tubes cannot infringe the '433 patent under the doctrine of equivalents. The Federal Circuit Court of Appeals has conclusively stated that Research is precluded from attempting to apply the doctrine of equivalents to the '433 patent.
- B. Research cannot show that the old style tube literally infringes the '433 patent.
- C. Both of the '433 and '499 patents are invalid under one or both of 35 U.S.C. §102 and §103 in view of the prior art references set forth in Federal's Second Supplemental Notice of Evidence under 35 U.S.C. §282 and prior fluent tubes sold by Federal and prior fluent tubes from Seal-Right.
- D. The '433 and '499 patents are also invalid under 35 U.S.C. §112 for failing to provide an enabling disclosure and/or are indefinite.

E. The '433 and '499 patents are invalid under 35 U.S.C. §112 for failing to disclose the best mode.

F. The '433 and '499 patents are invalid under 35 U.S.C. §112 for failing to particularly point out and distinctly claim that which the inventor regards as his invention.

G. Defendant Federal claims that this is an exceptional case and is entitled to its attorney fees pursuant to 35 U.S.C. §285.

STIPULATED FACTS

The parties stipulate to the following uncontested facts:

1. United States Patent No. 5,628,433 was issued by the United States Patent Office on May 13, 1997
2. Patent No. 5,749,499 was issued by the United States Patent Office on May 12, 1998.
3. These patents are owned by assignment by Plaintiff, Research, who has exclusive right to bring the suit for infringement of those patents.
4. Defendant, Federal, manufactures and sells injected molded plastic cartridges for fluent materials.
5. The United States Court of Appeals for the Federal Circuit has ruled on the proper meaning of the claim 10 in the '433 patent.
6. Under the claim interpretation set forth by the Federal Circuit of claim 10 in the '433 patent, the new style rib does not literally infringe claim 10.
7. Federal's first old style tube included a chamfer angle.
8. At least one company (Sunoco) makes caulking tubes without a chamfer angle.
9. Research's tubes with ribs have always had a chamfer angle.
10. Research knew that it wanted to stop its rib above the expected fill of the tube.

11. The asserted claims recite dimensional relationships between the area of the ribs and the area of the tube.

12. The inventor believed his invention was to provide an air escape structure to allow air to escape out of the tube.

CONTESTED ISSUES OF FACT

Plaintiff's Contested Issues of Fact

1. Whether, under the claim interpretation set forth by the Federal Circuit, the old style tube rib literally infringes claim 10 of the '433 patent.

2. Whether Federal can prove that even one of the old style tubes did not literally infringe claim 10 of the '433 patent as the combination of tolerances would allow it to be outside of the claimed range for the size of its rib.

3. Whether Federal's new style tube infringes claim 10 of the '433 patent under the doctrine of equivalents. This would involve the expansion of clause 4 to find that there could be additional plastic beyond the end of the rib in the new style tube.

4. Whether Federal has willfully infringed the '433 patent.

5. Whether Federal has willfully infringed the '499 patent.

6. Whether Research has suffered any damage as a result of Federal's infringement of the '433 patent.

7. Whether Research has suffered any damage as a result of Federal's infringement of the '499 patent.

8. The amount of damage suffered by Research as a result of Federal's infringement.

9. Whether Research would have sold tubes to the customers supplied by Federal during the time Federal was selling the old style tube "but for" the infringement by Federal.

10. Whether Research would have sold tubes to the customers supplied by Federal during the time Federal was selling the new style tube "but for" the infringement by Federal.

11. Whether without Federal's use of the old style rib tubes to gain the production contract for supply of Coronado Research would have supplied the tubes to Coronado.
12. Whether Federal's infringement of the '433 and/or '499 patent caused the price that Research could obtain for its tubes to erode by some amount.
13. Whether any of the prior art references that Federal argues renders the claims of the '433 and '499 patents obvious were closer to the claims of the '433 and '499 patents than was the prior art found by the examiner of the patents in the United States Patent and Trademark Office.
14. Is there any suggestion found in the prior art to modify the various references relied upon by Federal such that they can meet the claims of the '433 and/or '499 patent.
15. Whether there is evidence of non-obviousness.
16. Whether Frank Foster, Federal's counsel, told Federal's president, Norm Pfeiffer that the old style tube literally infringed the '433 patent claims.
17. Whether at all times relevant to this lawsuit, Research had the capacity to supply the additional caulking tubes in the amount to be substituted for those being manufactured and sold by Federal.

Defendant's Contested Issues Of Fact

- A. Whether Research can prove any of the old style tubes infringe claim 10 of the '433 patent.
- B. Whether the prior art references relied upon by Federal to support its contentions that claims of the '433 patent and '499 patent are invalid for obviousness are analogous prior art to the '433 and '499 patents.
- C. What is the scope and content of the analogous prior art that Federal contends the claims of the '433 and '499 patents invalid for obviousness.
- D. What is the difference between the claims and the prior art references that Federal alleges renders the claims obvious.

- E. What is the level of skill in the art.
- F. Whether the '433 and/or '499 patents are anticipated by any of the prior art references or devices under 35 U.S.C. §102.
- G. Whether, at the time of filing the '433 and/or '499 applications, the inventor possessed a best mode for practicing the invention.
- H. Whether the written description discloses the best mode such that one reasonably skilled in the art could produce it.
- I. Whether the '433 and/or '499 applications when filed: (1) contained a written description of the invention; (2) sufficiently clear and complete to enable; (3) one of ordinary skill in the art to make and use the invention; (4) as claimed; (5) without undue experimentation.
- J. Whether those skilled in the art can understand what is claimed or the scope of what is claimed when read in light of the specification.
- K. Whether the '433 or '499 patents claim subject matter that the applicant does not regard as his invention.

CONTESTED ISSUES OF LAW

Plaintiff's Contested Issues of Law

- 1. Whether the Court should enjoin Federal from making, using, selling, offering for sale or importing into the United States, any caulking tube having the infringing rib designs.
- 2. Whether attorneys' fees should be awarded to Research pursuant to 35 USC § 285.
- 3. Whether the damages awarded Research should be increased up to three times the amount found or assesses, and if so, how much.

Defendant's Contested Issues Of Law

- A. Whether any claims of the '433 and/or '499 patents are invalid under 35 U.S.C. §103.
- B. Whether any claims of the '433 and/or '499 patents are invalid under 35 U.S.C. §112 for:
 - (1) being indefinite;
 - (2) having a non-enabling disclosure;
 - (3) failing to set forth the best mode; and/or
 - (4) failing to particularly point out and distinctly claim the subject matter the applicant regards as his invention.
- C. Whether attorney fees should be awarded to Federal pursuant to 35 U.S.C. §285.

EVIDENCE PROBLEMS LIKELY TO ARISE AT TRIAL

Plaintiff's Statement of Evidentiary Issues Likely to Arise at Trial

- 1. Federal appears likely to argue that some of its old style tubes may have been outside of the scope of claim 10 of the '433 patent by relying upon a possible alignment of several tolerances that would bring the size of the rib outside of the claim range. Research objects to this evidence. There is no evidence at all that even one tube might have fallen into this alignment of the three tolerances.
- 2. Whether the parties may elicit testimony from an expert regarding Patent Office procedure.
- 3. Whether Federal's expert witness, Joseph Burgess, should be allowed to testify on Patent Office procedure, on any issue with regard to infringement, and on any issue with regard to validity of the patents-in-suit. He lacks apparent basis in the tube manufacturing art, and was never a patent examiner.

Defendant's Statement of Evidentiary Issues Likely To Arise At Trial

- A. Research is attempting to argue that the new style tube infringes under the doctrine of equivalents. But, the Federal Circuit has conclusively ruled that Research is precluded from arguing doctrine of equivalents. All evidence of infringement under the doctrine of equivalents of the '433 patent should be excluded.
- B. Research is attempting to shift its burden of proving infringement of the '433 patent to Federal. This is improper.
- C. Research is attempting to present damages for tubes including the new style and ribless tubes which do not infringe either the '433 or '499 patents. This evidence should be excluded.
- D. Research is attempting to change its damages theory belatedly. Such belated submission of a new damage theory is prejudicial to Federal and should be excluded.

WITNESSES LISTS

Plaintiff's Witness List

Will Call:

- 1. David Binder;
- 2. Fred Binder;
- 3. Mark E. Bamberger (in person or by deposition);
- 4. J. Thomas Elston (in person or by Deposition);
- 5. Frank H. Foster (in person or by Deposition);
- 6. Norman Pfeifer (in person or by deposition);

May Call:

- 7. Andrew C. McGowan (in person or by Deposition);

8. All witnesses necessary for rebuttal.

Plaintiff's Expert Witnesses

1. John Sase;
2. Richard Grauer.

Objections

Research reserves the right to object to deposition testimony subsequently designated by Federal for admission at trial.

Defendant's Witness List

Defendant's Expert Witnesses

Defendant's Witness List

- | | | | |
|------------|--------------------------------------|-------------------|-------------------------|
| Will call: | A. | Norman Pfeifer | |
| | B. | J. Thomas Elston | |
| | C. | Frederick Binder | (live or by deposition) |
| May call: | D. | David Binder | (live or by deposition) |
| | E. | Mark E. Bamberger | (live or by deposition) |
| | F. | Frank Foster | (live or by deposition) |
| | G. | Andrew McGowan | (live or by deposition) |
| | H. | Loren Plotkin | (by deposition) |
| H. | All witnesses necessary for rebuttal | | |
| I. | Any person named on Plaintiff's list | | |

Defendant's Expert Witness List

- A. Joseph G. Burgess
- B. Bruce Correll

Objections

Federal reserves the right to object to deposition testimony subsequently designated by Research for admission at trial.

EXHIBITS

The parties will continue to review this list and pare off redundant exhibits. It is expected a smaller listing of exhibits can be provided to the court by Thursday or Friday of this week.

Research Plastics Exhibits [Defendant's Objections are Listed in Brackets]

1. 06/19/1990 United States Patent No. 4,934,570 (Dep. Exhibit #2)
2. 05/03/1988 Kardon Industries, Inc. Concept Generation Design Categories List (Dep. Exhibit #17) [Hearsay; relevance]
3. 03/14/1994 Letter from Andrew C. McGowan to Mark E. Bamberger, re: Baltimore Trip – Plastic Cartridge Trial (Dep. Exhibit #19)
4. 01/08/1997 Memorandum from Andrew C. McGowan to Jim Marquis, re: Gibson Hohmans, visit to California (Dep. Exhibit #24)
5. 06/09/1992 drawings for One Piece Molded Caulk Tube, Federal Packaging Corporation (Dep. Exhibit #25)
6. 01/08/1997 drawings for Caulk Tube Core, AMP Incorporated (Dep. Exhibit #26)
7. 05/13/1997 United States Patent No. 5,628,433 (Dep. Exhibit #27)
8. 05/12/1998 United States Patent No. 5,749,499 (Dep. Exhibit #28)
9. 06/11/1997 Letter from Frank H. Foster to Theodore W. Olds, re: United States Patent 5,628,433 (dep. Exhibit #29)
10. Research Plastic, Inc. brochure for "Self-Burping" Tube (full color) (Dep. Exhibit #30)
11. 01/15/1999 Memorandum from Andrew C. McGowan to Norman Pfeifer, re: Research Interrogatories (Dep. Exhibit #31) [Hearsay]

12. 06/12/1986 Letter from J. Thomas Elston to Roy Brewster, re: McCormick Plastic Top Can (Dep. Exhibit #38)
13. 06/12/1986 Letter from J. Thomas Elston to Mark Bamberger, re: McCormick Plastic Tops and Plunger (Dep. Exhibit #39)
14. DeLorenzo, Josephine A. "New Tube Design Improves Productivity", *Adhesives & Sealants Industry*, June/July 1998, p.52-53 (Dep. Exhibit #40)
15. 12/31/1998 Federal Packaging Corporation Profit & Loss Statements (Dep. Exhibit #41)
16. 02/05/1997 Letter from Andrew C. McGowan to Bob Uniack (Dep. Exhibit #42)
17. 04/01/1998 Letter from Norman Pfeifer to Frederick Binder, re: exploring future business opportunities between Federal Packaging Corporation and Research Plastics, Inc. and the acquisition of Research Plastics, Inc. by Federal Packaging Corporation. (Dep. Exhibit #43) [Hearsay; relevance and prejudicial]
18. 06/09/1998 Letter from Norman Pfeifer to David Binder, re: Federal Packaging states they do not believe they have infringed upon Research Plastics, Inc. patents. (Dep. Exhibit #44)
19. 10/29/1998 Letter from Frank H. Foster to Theodore W. Olds, re: reply to request for number of injected, molded, plastic cartridges that were sold. (Dep. Exhibit #45)
20. 06/10/1997 Memorandum from Andrew C. McGowan to Norman Pfeifer, re: confirmation of conversation on 06/09/1997 (Dep. Exhibit #46)
21. 06/11/1997 Facsimile from David Binder to Loren Plotkin, re: notification of obtaining patent for #1040 Self-Burping Tube (Dep. Exhibit #47)
22. 08/20/1998 Letter from Frank H. Foster to Norman Pfeifer, re: advisement to eliminated ribs so as to not infringe on patent; 06/29/1998 Letter from Frank H. Foster to Mark Bamberger, re: review of tube with shortened ribs; 06/26/1998 Letter from Frank H. Foster to Mark Bamberger, re: review of sample tubes; 06/24/1998 Letter from Mark Bamberger to Frank H. Foster, re: sample tubes; 05/29/1998 Letter from Frank H. Foster to Mark Bamberger, re: response to facsimile of May 28, 1998; 05/28/1998 Facsimile from Mark Bamberger to Frank Foster, re: hand drawings of changes to tube. (Dep. Exhibit #49) [Hearsay; relevance]
23. 05/04/1999 Notice of Taking Deposition of Mark E. Bamberger (Dep. Exhibit #50) [Relevance]
24. 05/24/1999 Notice of Deposition of Defendant Federal Packaging Corporation Pursuant to Rule 30 (B)(6) (Dep. Exhibit #51) [Relevance]

25. 05/29/1992 Plastic Cartridge Meeting Agenda (Dep. Exhibit #52) [Relevance]
26. 05/30/1997 Facsimile from Norm Pfeifer to FPC Georgetown, re: notification of Research Plastics, Inc. patent granting and copy of patent No. 5,628,433 (Dep. Exhibit #53)
27. 05/28/1998 Facsimile from Mark Bamberger to Frank Foster, re: hand drawings of potential changes to tube (Dep. Exhibit #54) [Redundant and for the same reasons set forth in respect to the earlier exhibit]
28. 01/13/1996 Letter from Tom Elston to Mark Bamberger and Andy McGowan, re: Vertical Compression Strength of Caulk Tubes and Specifications; Tip Impact Test Procedure; In Process Monitoring and Quality Control Procedures (Dep. Exhibit #55) [Hearsay; relevance]
29. Federal Packaging Corporation - Georgetown Cartridge Sales by Customer (Dep. Exhibit #58)
30. Federal Packaging Corporation Board Meeting Book (Dep. Exhibit #63)
31. 06/02/1995 Letter from Jim Marquis to Andy McGowan, re: Plastic Cartridge Update (Dep. Exhibit #64)
32. 06/21/1996 Memorandum from Andrew C. McGowan to M. Bamberger, D. Carlson, H. Dill, T. Elston, N. Pfeifer, L. Subler, J. Wack, re: copy of Press Release – Plastic Cartridge (Dep. Exhibit #65)
33. 12/14/1992 Plastic Cartridge Supply Agreement between Federal Packaging Corporation and DAP, Inc. (Dep. Exhibit #66)
34. Amendment to Requirements Agreement between Kardon Industries, Inc. and Federal Packaging Corporation (Dep. Exhibit #67) [Relevance]
35. 05/28/1992 Purchase Order for Federal Packaging Corporation to David Binder at Research Plastics, Inc.; facsimiles from David Binder and Norman Pfeifer regarding pricing. (Dep. Exhibit #69) [Relevance]
36. 02/11/1993 Letter from Norman Pfeifer to David Binder, re: pricing of plunger and the opening of the Fishbach plastic cartridge manufacturing plant in Elizabethtown, KY. (Dep. Exhibit #70) [Relevance]
37. 09/21/1992 Letter from Norman Pfeifer to David Binder, re: customer in-house testing of Research Cartridge, concerns regarding the Research Cartridge. (Dep. Exhibit #71)
38. 09/16/1992 Facsimile from David Binder to Norman Pfeifer, re: requesting results of in-plant testing (Dep. Exhibit #72)

39. Handwritten notes – Deposition in Research Lawsuit, Mark Bamberger (Dep. Exhibit #73) [Hearsay; relevance]
40. Document stating number of cartridges sold prior to introduction of ribs; a list of Federal Packaging Customers before cartridge had vent ribs; and list of Federal Packaging Customers cartridges with vent ribs have been sold. (Dep. Exhibit #74)
41. 08/01/1997 Letter from Frank H. Foster to Norman Pfeifer, re: Opinion of existing Research Plastics' patents. (Dep. Exhibit #75)
42. 08/01/1989 United States Patent No. 4,852,772 (Dep. Exhibit #76)
43. Georgetown Cartridge Sales By Customer (Exhibit #81, 8-30-1999)
44. Drawing, Federal Packaging Old Style (Exhibit #82, 8-30-1999)
45. Research Plastics, Inc. "Self-Burping" Tube Brochure with handwritten notes (Exhibit #83, 8-30-1999) [Redundant of earlier exhibit]
46. Research Plastics, Inc. "Self-Burping" Tube Brochure (color version) (Exhibit #86, 8-30-1999)
47. Georgetown and New Smyrna Beach – Annual Units, Net Sales, Costs and Operating Income for Ribless, Old Style, New Style. From 1995-2005.(Exhibit #152)
48. FPC/Caraustar Plastic Cartridge Production Summary (Exhibit #153)
49. FPC/Caraustar Plastic Cartridge Production Summary (Exhibit #154)
50. Annual Unit Volume, Sales, Cost, and Profit Margin from 1985-2005 (Exhibit #155) [Relevance]
51. 11/02/1982 United States Patent No. 4,356,935 (Exhibit #158)
52. License Agreement between Kardon Industries, Inc., Containers Limited, and Containers Packaging. (Exhibit #159)
53. Abstract of European Patent No. 351 933 A1 (Exhibit #160) [Relevance]
54. 02/14/1991 Letter from Norman Pfeifer to Ray Waycott, re: Adjustment of royalty fee for Containers Packaging from Federal Packaging Corporation. (Exhibit #161)
55. 07/06/1992 Letter from Norman Pfeifer to Ray Waycott, re: License Agreement Royalties (Exhibit #162)

56. 06/12/1996 Letter from Norman Pfeifer to Phi Guy, re: interest in license. (Exhibit #165) [Relevance]
57. 09/17/1996 Facsimile from Norman Pfeifer to Phil Guy, re: fulfillment of request for costs (Exhibit #166) [Relevance]
58. 11/16/1993 Facsimile from Frank Bacak to Andy McGowan, re: Royalty September 1993 Quarter (Exhibit #167)
59. 01/27/1989 Letter from Andy McGowan to Memo to File, re: Containers Packaging – Australia (Exhibit #168) [Relevance]
60. 04/30/1992 Letter from Andy McGowan to Norm Pfeifer, re: Containers Ltd. Royalty (Exhibit #169) [Relevance]
61. 12/04/1997 Cartridge Supply Agreement between Federal Packaging Corporation and Coronado Laboratories, Inc. (Exhibit #171)
62. 12/17/1993 Shipper from Research Plastics, Inc. to Coronado Laboratories (Bates No. 500) [Hearsay, relevance]
63. Summarization of phone conversation with Rich Novotny (Bates No. 503) [Hearsay; relevance and produced after the close of discovery]
64. Annual Summary of Tube Shipped, 2000-2005 (Bates No. 504) [Authenticity; hearsay and produced after the close of discovery]
65. Annual Summary of 1040 Tubes Shipped, 1993-1999 (Bates No. 505) [Authenticity; hearsay and produced after the close of discovery]
66. 09/23/1993 Shipper from Research Plastics, Inc. to Coronado Laboratories (Bates No. 506) [Hearsay; relevance and produced after the close of discovery]
67. 05/25/1994 Shipper from Research Plastics, Inc. to Coronado Laboratories (Bates No. 507) [Hearsay; relevance and produced after the close of discovery]
68. 01/27/1998 Letter from Wayne Pulman to Dale Tomazin, Lighthouse Products (Bates No. 508)
69. 01/15/1998 Letter from Wayne Pulman to Tom Kehr, Lighthouse Products with handwritten notes (Bates No. 509) [Authenticity; hearsay and produced after the close of discovery]
70. 01/15/1998 Letter from Wayne Pulman to Tom Kehr, Lighthouse Products (Bates No. 510) [Hearsay; relevance and produced after the close of discovery]

71. 01/28/1997 Letter from David Binder to Loren Plotkin (Bates No.511) [Relevance; hearsay]
72. 01/28/1997 Letter from David Binder to Loren Plotkin (Bates No. 512) [Relevance; hearsay]
73. 01/09/1998 Letter from Wayne Pulman to Robert Taylor with handwritten notes (Bates No. 513) [Authenticity; hearsay; relevance and produced after the close of discovery]
74. Coronado Laboratories chart of tubes produced with Part #, Description of product, Tube #, Color, PMS (Bates No. 514) [Authenticity; hearsay; relevance and produced after the close of discovery]
75. 10/16/2002 Facsimile from David Binder to John Blasko (Bates No. 515) [Authenticity; hearsay; relevance and produced after the close of discovery]
76. 10/16/2002 Letter from Theodore W. Olds to David Binder (Bates Nos. 516-517) [Hearsay; relevance and produced after the close of discovery]
77. Material Purchase Agreement Material Cover Sheet between PPG Industries, Inc. and Research Plastics, Inc. (Bates No. 518) [Authenticity; hearsay; relevance; incompleteness and produced after the close of discovery]
78. 08/17/2000 Letter to Michael Markun, PPG Industries, Inc. (Bates No. 519) [Authenticity; hearsay; relevance; incompleteness and produced after the close of discovery]
79. 04/21/2003 Letter from David Binder to Jan Sprinkle (Bates No. 520) [Authenticity; hearsay; relevance and produced after the close of discovery]
80. 04/21/2003 Letter from David Binder to Jan Sprinkle (Bates No.521) [Authenticity; hearsay; relevance and produced after the close of discovery]
81. Research Plastics, Inc. Plant Visitors Agreement of Secrecy of Confidential Information, signed by Norman Pfeifer of Federal Packaging Corporation (Bates No. R012) [Relevance; prejudicial]
82. Research Plastics, Inc. Plant Visitors Agreement of Secrecy of Confidential Information, signed by Mark E. Bamberger of Kardon Industries, Inc. (Bates No. R015) [Relevance; prejudicial]
83. Research Plastics, Inc. Self Burping Tube Advertisement (Bates No. 526)
84. Research Plastics, Inc. Self Burping Tube Advertisement (Bates No. 527) [Authenticity; hearsay; produced after the close of discovery]
85. Research Plastics, Inc. Self Burping Tube Advertisement (Bates No. 528)

86. Dunn & Bradstreet Report for Caraustar Industries Inc. (Bates Nos. 529-532) [Authenticity; prejudicial; hearsay; relevance and produced after the close of discovery]
87. Dunn & Bradstreet Report for Caraustar Industrial & Consumer Products Group Inc. (Bates Nos. 533-534) [Authenticity; prejudicial; hearsay; relevance and produced after the close of discovery]
88. Dunn & Bradstreet Report for Federal Packaging Corporation (Bates No. 535) [Authenticity; prejudicial; hearsay; relevance and produced after the close of discovery]
89. 05/13/1997 United States Patent No. 5,628,433 (Binder Exhibit #2, 06-17-1999)
90. 05/12/1998 United States Patent No. 5,749,499 (Binder Exhibit #3, 06-17-1999)
91. Research Plastic Inc. Standard Cost Sheet (Binder Exhibit #4, 06-17-1999) [Authenticity; hearsay; relevance]
92. 04/29/1996 Facsimile from David Binder to Theodore W. Olds, re: changes to specification for patent application "Caulking Tube Air Escape Structure" (Binder Exhibit #5, 06-17-1999) [Authenticity; hearsay; relevance]
93. File history for United States Patent No. 5,528,433 (Binder Exhibit #6, 06-17-1999)
94. Hand drawing for tube (Binder Exhibit #8, 06-17-1999)
95. File history for United States Patent No. 5,749,499 (Binder Exhibit #9, 06-17-1999)
96. Research Self Burping #1040-300 Cartridge System Document (Binder Exhibit #10, 06-17-1999) [Authenticity; hearsay]
97. Research Self Burping #1040-300 Cartridge System and Product Advantages (Binder Exhibit #11, 06-17-1999) [Authenticity; hearsay]
98. 08/04/1995 Letter from David Binder to Steve Hagar (Binder Exhibit #14, 06-17-1999) [Authenticity; hearsay; relevance]
99. 04/21/1995 Letter from David Binder to Loren Plotkin (Binder Exhibit #15, 06-17-1999) [Authenticity; hearsay; relevance]
100. Research Plastics, Inc. Comparison of Sales 1996/1997 Chart, Quantities Per Month for Gibson-Homans 1996/1997 Chart, and Quantities Per Label for Gibson-Homans 1995-1997 Chart (Binder Exhibit #16, 06-17-1999) [Authenticity; hearsay; relevance]
101. 07/04/1996 Letter from David Binder to Dave Smith (Binder Exhibit #17, 06-17-1999) [Authenticity; hearsay; relevance]

102. 06/15/1993 Facsimile from David Binder to Jeff Sparks, re: Pricing on Research Plastics, Inc. #1040-300 Cartridge System (Binder Exhibit #18, 06-17-1999) [Authenticity; hearsay; relevance]
103. Research Plastics, Inc. Tube Shipped Per Customer Chart (Binder Exhibit #19, 06-17-1999) [Authenticity; hearsay]
104. Research Plastic Inc. Standard Price List, effective January 1997 (Binder Exhibit #20, 06-17-1999) [Authenticity; hearsay; relevance]
105. Research Plastic Inc., 1040 Self Burping Tube 1997/1998 chart showing increases or decreases per customer (Binder Exhibit #21, 06-17-1999) [Hearsay]
106. Research Plastic Inc., 1040 Tubes Shipped 1993-1998 to Gibson-Homans, Home Hardware, and Pecora (Binder Exhibit #22, 06-17-1999) [Hearsay]
107. 11/25/1997 Facsimile from David Binder to Scott Carlisle (Binder Exhibit #24, 06-17-1999) [Hearsay; incompleteness]
108. Expert opinion of John Sase dated 14 September, 1999 [Competence; relevance]
109. Expert opinion of John Sase dated 8 February, 2006. Further, excerpts from this opinion may also be separately utilized as display materials. [Competence; relevance and as set forth in Motion in Limine]
110. Expert opinion of Kevin Rutherford dated 17 September, 1999. [Relevance]
111. Concurrence in Mr. Rutherford's expert opinion by Richard Grauer dated 15 February, 2006.
112. Claim limitation table as per Judge Cohn's ruling on claim interpretation, and revised as per the Federal Circuit decision for use as testimony exhibit. [Relevance; hearsay]
113. R010-011 Federal Packaging plunger ad.
114. R0146 2/6/92 letter regarding purchase of Research to Frederick Binder from Federal Packaging. [Relevance]
115. R169-172 Presentation 6/1/98 – Research to Gibson Homans [Relevance; hearsay]
116. R259-261 Letter David Binder to David Smith 2/19/1993 [Relevance; hearsay]
117. D0077 Memo re: Sonoco plastic plungers dated 5/27/1987 Leister to Pfeiffer, et al. [Authenticity, relevance, hearsay]
118. D97 Ribless Kardon tube drawing 6/9/1992.

119. D177-178 – Memo 9/11/1994 re: White Lightening by Norm Pfeiffer.

120. Sample of Federal's old style tube and photographs.

121. Sample of Federal's new style tube and photographs. Notably with regard to both the samples of Federal's old style and new style tubes, Research's samples were destroyed at the close of the summary judgment phase. As understood, Federal has only one old style tube left, and has yet to produce an additional new style tube to Research.

122. Sample of Research Plastics' tube. Again, the original exhibit has been destroyed, however, Research will supply new tubes.

123. Research notes that it may rely on any document on Federal's Exhibit List.

124. Research notes that it may rely on any document previously produced in this litigation as a rebuttal exhibit.

125. Research notes that it may rely on any other rebuttal exhibit.

Defendant Federal Packaging's Exhibit List

DEFENDANT FEDERAL PACKAGING, INC.
 PROPOSED EXHIBIT LIST
 [Plaintiff's Objections In Brackets]

EXH. NO.	BATES/ DEP EX. NUMBER	DOCUMENT DATE	DOCUMENT TYPE	PATENT/APPLICATION		DESCRIPTION
				NUMBER	COUNTRY	
500	D00001	09-24-86	Quotation			Kardon Industries Tool Quotation to CC&T for Mac Plunger #(0429) [Hearsay; relevance]
501	D00010		Advertise			Advertisement for Research #1040 Self-Burping Tube with handwritten notes
502	D00014- D00015	06-12-86	Memo			Kardon Intra-Office Correspondence from Elston to Brewster re: McCormick Plastic Top Can
503	D00030	05-28-98	Memo			Fax Memorandum Bamberger to Foster re: patent rib design
504	D00031- D00032	01-08-97	Drawing			AMP Inc. Drawing No. 12900 Caulk Tube Core - Handwritten Note and Drawing to Frank re: proto-type core
505	D00033	02-04-97	Drawing			Federal Packaging Drawing No. 5124A 2000 for One Piece Molded Caulk Tube
506	D00034	03-14-94	Letter			McGowan to Bamberger re: Baltimore Trlp - Plastic Cartridge Trial

507	D00041-D00044	05-03-88	Chart			Kardon Industries, Inc. Concept Generation Design Categories List
508	D00054	09-22-88	Memo			Kardon IntraOffice Memo from Neal Leister to Norm Pfeifer re: Plastipak [Relevance; hearsay]
509	D00055	11-03-88	Memo			Kardon IntraOffice Memo from J. Thomas Elston to Andy McGowan re: Cappers for Straightwall Breakaway Plungers [Relevance]
510	D00063-D00064	11-08-88	Memo			Kardon IntraOffice Memo from J. Thomas Elston to Eric Carlson re: 16-Hole/Hardee's
511	D00068	10-02-85	Memo			Kardon IntraOffice Memo from A.C. McGowan to See Distribution re: McDonald's Update
512	D00069-D00073	Undated	Timeline			Kardon Co History Timeline 1976 - 1986
513	D00078-D00083	05-28-97	Letter			Ted Olds to Norman Pfeifer re: Research Plastics, Inc. United States Patent No. 5,628,433 and facsimile page from Norm Pfeifer to Mark Bamberger
514	D00137	05-29-92	Agenda			Plastic Cartridge Meeting Agenda
515	D00140-D00144	05-28-92	Memo			Federal IntraOffice Memo from Norm Pfeifer to Judy Lowe re: Research Plastic (Purchase Order No. 02845)

516	D00168-D00169	02-12-96	Memo			Memo from Andrew McGowan to Mark Bamberger re: GE Testing of FPC Plastic Ctg. with attached testing result [Relevance]
517	D00174-D00175	08-27-96	Memo			Memo from Andrew McGowan to Wayne Gore re: Possible Plastic Cartridge Plant Locations with map of eastern United States
518	D00200-D00202	12-01-14	Patent	1,119,033	US	E. E. Paddock Grease Gun (\$282 Notice - 07-07-99)
519	D00203-D00205	10-20-25	Patent	1,555,837	US	G. N. Hein Hypodermic Syringe (\$282 Notice - 07-07-99)
520	D00206-D00210	02-09-37	Patent	2,070,206	US	J. E. Hudson Method Of And Apparatus For Supplying Ink To Printing Presses (\$282 Notice - 07-07-99)
521	D00211-D00215	01-25-44	Patent	2,340,024	US	H. G. Skaller Sterilizer Container (\$282 Notice - 07-07-99)
522	D00216-D00218	08-19-52	Patent	2,607,344	US	F. E. Brown Syringe Assembly (\$282 Notice - 07-07-99)
523	D00219-D00224	11-22-55	Patent	2,724,385	US	M. L. Lockhart Ointment Depositors (\$282 Notice - 07-07-99)
524	D00225-D00230	12-01-59	Patent	2,915,226	US	E. P. Sundholm Grease Gun (\$282 Notice - 07-07-99)

525	D00231-D00234	02-14-61	Patent	2,971,802	US	R. E. Kennemer, et al Grooved Cylinder Liner For Reduced Ring Groove Wear (\$282 Notice - 07-07-99)
526	D00235-D00238	04-04-61	Patent	2,978,151	US	E. P. Sundholm Multi-Fill Grease Gun (\$282 Notice - 07-07-99)
527	D00239-D00244	01-16-62	Patent	3,016,896	US	W. E. Van Sickle Disposable Hypodermic Syringe (\$282 Notice - 07-07-99)
528	D00245-D00247	04-06-65	Patent	3,176,886	US	E. G. Worden Pressure Gun With Air Release And Filler (\$282 Notice - 07-07-99)
529	D00248-D00251	12-13-66	Patent	3,291,128	US	J. G. O'Neil Hypodermic Syringe Construction With Sealable Vent Means (\$282 Notice - 07-07-99)
530	D00252-D00254	01-10-67	Patent	3,297,184	US	J. P. Andelin Cap For Culture Tubes (\$282 Notice - 07-07-99)
531	D00255-D00258	09-02-69	Patent	3,464,575	US	V. Arslanian, et al Container Closure (\$282 Notice - 07-07-99)
532	D00259-D00262	05-07-74	Patent	3,809,280	US	W. A. Park, et al Closures For Containers (\$282 Notice - 07-07-99)

533	D00263-D00266	05-07-74	Patent	3,809,298	US	R. J. Harris, Sr., et al Syringe (\$282 Notice - 07-07-99)
534	D00267-D00271	09-10-74	Patent	3,834,387	US	A. M. Brown, et al Breech Loaded Syringe With Deformable Piston (\$282 Notice - 07-07-99)
535	D00272-D00276	03-16-76	Patent	3,943,917	US	E. Johansen Method For Collecting Blood Samples (\$282 Notice - 07-07-99)
536	D00277-D00281	06-01-76	Patent	3,960,139	US	D. L. Bailey Syringe Device With Means For Removing Contaminates When Drawing Blood Sample (\$282 Notice - 07-07-99)
537	D00282-D00288	05-23-78	Patent	4,090,646	US	J. A. Dubiel, et al Soft Food Dispenser (\$282 Notice - 07-07-99)
538	D00289-D00293	10-17-78	Patent	4,120,128	US	M. Pauls Arrangement For Securing Objects To Support Structures With Multi-Component Hardenable Binder Material (\$282 Notice - 07-07-99)
539	D00294-D00300	01-30-79	Patent	4,136,801	US	S. Pavenick Replaceable Cartridge For A Dispenser (\$282 Notice - 07-07-99)
540	D00301-D00305	01-15-80	Patent	4,183,457	US	W. A. Loughley, et al Shrink Tape Closure (\$282 Notice - 07-07-99)

541	D00308- D00310	02-26-80	Patent	4,190,170	US	E. J. Boyd Snuff Can And The Like (\$282 Notice - 07-07-99)
542	D00311- D00317	06-10-80	Patent	4,206,768	US	D. L. Bailey Syringe Device With Means For Selectively Isolating A Blood Ampule After Removal Of Contaminates (\$282 Notice - 07-07-99)
543	D00318- D00325	01-10-84	Patent	4,424,817	US	C. D. Williams Syringe With Means For Automatically Sealing A Blood Sample Within The Syringe (\$282 Notice - 07-07-99)
544	D00326- D00335	02-25-86	Patent	4,572,210	US	R. J. McKinnon Syringe With Means For Allowing Passage Of Air While Preventing The Passage Of Blood To Obtain A Gas-Free Blood Sample (\$282 Notice - 07-07-99)
545	D00336- D00341	09-15-87	Patent	4,693,706	US	J. F. Ennis, III Two Compartment Mixing Syringe (\$282 Notice - 07-07-99)
546	D00342- D00348	12-29-87	Patent	4,715,854	US	V. L. Vaillancourt Multidose Disposable Syringe And Method Of Filling Same (\$282 Notice - 07-07-99)
547	D00349- D00354	08-02-88	Patent	4,760,936	US	R. J. Mueller Ventable Container (\$282 Notice - 07-07-99)
548	D00355- D00365	12-20-88	Patent	4,792,066	US	N. Kobayashi Chemical Liquid Injector (\$282 Notice - 07-07-99)

549	D00366-D00372	06-19-90	Patent	4,934,570	US	M. E. Bamberger, et al Container Closure With Breakaway Plunger And Diffusing Container Incorporating The Same (\$282 Notice - 07-07-99)
550	D00373-D00376	08-28-90	Patent	4,951,848	US	W. A. Keller Viscous Material Dispenser With Vented Delivery Piston (\$282 Notice - 07-07-99)
551	D00377-D00386	10-15-91	Patent	5,056,690	US	T. Ichihara, et al Dispensing Container For Viscous Material (\$282 Notice - 07-07-99)
552	D00387-D00395	12-22-92	Patent	5,172,807	US	W. B. Dragan, et al Cement Mixing Capsule (\$282 Notice - 07-07-99)
553	D00396-D00402	11-01-94	Patent	5,360,146	US	K. Ikushima Liquid Dispenser Plunger (\$282 Notice - 07-07-99)
554	D00403-D00413	12-20-94	Patent	5,374,557	US	K. Verma Fermentation Vessels And Closures Therefor (\$282 Notice - 07-07-99)
555	D00414-D00425	01-31-95	Patent	5,385,274	US	G. L. Twyman Mortar Composition And Extrusion Gun (\$282 Notice - 07-07-99)
556	D00428-D00451	12-20-79	Agreement			License Agreement between Kardon Industries and Containers Limited

557	D00456-D00460	09-07-93	Patent	5,242,091	US	Nobuo Ishida, et al Sealant Cartridge (\$282 Notice - 01-12-06)
558	D00461-D00469	04-22-97	Patent	5,622,288	US	David E. Boring Cartridge Plunger With Surface Cleaning Skirt (\$282 Notice - 01-12-06)
559		08-01-89	Patent	4,852,772	US	James F. Ennis III Dispenser For Viscous Fluids (\$282 Notice - 01-12-06)
560		10-05-93	Patent	5,249,709	US	George J. Duckworth, et al Cartridge System For Dispensing Predetermined Ratios Of Semi-Liquid Materials (\$282 Notice - 01-12-06)
561	R000002	05-1999	Cost Sheet			Research Plastic, Inc. Standard Cost Sheet Part No. 1040-300-16
562	R000004	Undated	Show Exhibit Brochure			Research Self Burping #1040- 300 Cartridge System
563	R000025-R000027	01-23-96	Memo			Facsimile page and Fulks (Dow Corning) Memo to Pulman re: Summary of Recent Cartridge Testing

564	R000029- R000030	11-25-96	Memo Chart			Facsimile page Mota Memo to Binder re: sample caulking tube; Chart - Dynamic Compression Testing of Caulking Tube for Research Plastic Inc. [Relevance; Hearsay]
565	R000033- R000036	08-01-96	Letter Chart			Mota Letter to Pulman re: Report of Silicone Cure Test Caulking Tubes; Chart - Cure Testing of Silicone Tubes [Relevance; hearsay]
566	R000037- R000042	01-18-90	Letter Charts			Mota Letter to Binder re: Impact Performance of Caulking Tubes; Charts - Research Plastic Inc. Caulking Tube Impact Performance Summary of Results [Hearsay; relevance]
567	R000047- R000057	08-08-97	Letter			Schmitz (Glidden Legal Affairs) to Binder re: infringement of patent 5,582,331 - facsimile page - Vanmoor v. Wal-Mart - Information page on subjects covered by interrogatories - copy of patent 5,582,331
568	R000072- R000073	09-12-92	Memo			Facsimile report and Binder Memo to Brown (Home Hardware) re: Research Plastic Proposal To Provide A Plunger Stop At Bottom Of Tube
569	R000075- R000080	04-29-96	Memo			Binder Memo to Olds re: changes to patent application; Draft patent changes

570	R000105	12-01-97	Letter			Binder Letter to Coronado Laboratories re: Research #1040-300* Style Cartridge System: Price List and Product Advantages
571	R000109- R000110	04-21-95	Letter			Binder Letter to Coronado Laboratories re: estimated costs for molding and decorating of tubes/estimated cost for equipment and tooling
572	R000112	07-29-97	Letter			Crupper (Red Devil) letter to Pulman re: search for cartridge supplier [Hearsay]
573	R000113- R000115	06-24-97	Memo			Binder memo to Crupper re: Confidential pricing on Research cartridge systems and Price Lists
574	R000116	06-12-97	Letter			Pulman Letter to Crupper re: enclosed samples of tubes and plungers
575	R000117- R000118	12-01-97	Memo			Binder Memo to Crupper re: revised pricing list; Revised Price List
576	R000119	11-24-98	Letter			Binder Letter to Crupper re: Quotation for Style Cartridge System
577	R000135	06-09-98	Letter			Pfeifer Letter to Binder re: future discussion of patents and infringement

578	R000169- R000172	06-01-98	Agenda			Agenda for Presentation to Gibson Homans
579	R000173	11-26-97	Memo			Binder Memo to Irby (Gibson) re: revised proposal for 1998
580	R000174- R000177	11-11-96	Memo			Binder Memo to Irby (Gibson) re: confidential pricing proposal; Pricing Memo and Pricing Proposal
581	R000178	08-15-96	Letter			Binder Letter to Jamison (Sealant Technology) re: cartridge pricing
582	R000203	11-20-95	Memo			File Memo re: Gibson reaction to produce
583	R000213	11-26-97	Letter			Binder facsimile Letter to Irby (Gibson) re: revised proposal for 1998
584	R000247	07-14-95	Memo			Pulman Memo to Binder re: telephone conversation with Weitzel (Sherwin Williams) re: in part, Federal Packaging
585	R000269- R000270	04-21-98	Letter			Binder facsimile Letter to Sanders (White Lightning) re: price quotation
586	R000502	10-16-02	Letter			Binder Letter to Dawn Madison (Glidden) re: misinformation regarding self-burping tube

587	R000508	01-27-98	Letter			Pulman Letter to Dale Tomazin (Lighthouse) re: plastic injection moulded cartridges
588	R000509	01-15-98	Letter Handwritten Notes			Pulman Letter with handwritten notes to Tom Kehr (Lighthouse) re: color cartridges
589	R000510	01-15-98	Letter			Pulman Letter without handwritten notes to Tom Kehr (Lighthouse) re: color cartridges
590	R000511	01-28-97	Letter			Binder Letter to Loren Plotkin (Coronado) re: Price Schedule
591	R000512	01-28-97	Letter			Binder Letter to Loren Plotkin (Coronado) re: Price Schedule
592	R000519	08-17-00	Letter			First Page of Letter to PPG Industries re: proposal
593	R000526		Advertise			Research Plastic Self Burping Tube Advertisement
594	RES 30(b)(6) D. Binder 6 06-17-99		File History			File History For United States Patent No. 5,528,433
595	RES 30(b)(6) D. Binder 8 06-17-99		Drawing			Hand drawing for tube
596	RES 30(b)(6) D. Binder 9 06-17-99		File History			File History For United States Patent No. 5,749,499

597	RES 30(b)(6) D. Binder 10 06-17-99		Show Exhibit Brochure			Research Self Burping #1040-300 Cartridge System
598	RES 30(b)(6) D. Binder 11 06-17-99		Show Exhibit Brochure			Research Self Burping #1040-300 Cartridge System and Product Advantages
599	RES 30(b)(6) D. Binder 19 06-17-99		Chart			Research Plastic, Inc. Tubes Shipped/ Customer
600	RES 30(b)(6) D. Binder 24 06-17-99		Memo			Facsimile Memo from Binder to Scot Carlisle re: Revised #1040 Quote
601	RES 30(b)(6) F. Binder 26 06-18-99	12-05-92	Drawing			Research Plastic Drawing Part: B40 Plunger
602	RES 30(b)(6) F. Binder 27 06-18-99	12-05-92	Drawing			Research Plastic Drawing Part: 1040-300-16 Caulking Tube
603	RES 30(b)(6) F. Binder 28 06-18-99	05-09-99	Drawing			Research Plastic Drawing Part: 1040-300-16 Caulking Tube
604	RES 30(b)(6) F. Binder 29 06-18-99	02-14-99	Drawing			Research Plastic Drawing Part: 1050-300-16B Caulking Tube
605	RES 30(b)(6) F. Binder 30 06-18-99	05-09-99	Drawing			Research Plastic Drawing Part: SF40C Plunger
606	RES 30(b)(6) F. Binder 31 06-18-99	12-05-92	Drawing			Research Plastic Drawing Part: A50 Plunger
607	RES 30(b)(6) F. Binder 32 06-18-99	10-27-93	Drawing			Research Plastic Drawing Part: SF40 Plunger

608	RES 30(b)(6) F. Binder 33 06-18-99	03-07-96	Drawing			Research Plastic Drawing Part: LG40 Plunger
609	RES 30(b)(6) F. Binder 34 06-18-99	03-07-96	Drawing			Research Plastic Drawing Park: G40 Plunger
610	Bamberger 54 06-30-99	05-28-98 01-08-97	Memo Drawing and Note			Fax Memorandum Bamberger to Foster re: patent rib design AMP Inc. Drawing No. 12900 Caulk Tube Core - Handwritten Note and Drawing to Frank re: proto-type core
611	Bamberger 55 06-30-99	01-13-96	Memo			Revised Federal IntraOffice Memo from Tom Elston to Mark Bamberger and Andy McGowan re: Vertical Compression Strength of Caulk Tubes
612	FPC 30(b)(6) Pfeifer 6 03-08-99	01-11-99	Purchase Order			Kardon Purchase Order with handwritten notes [Hearsay; relevance]
613	FPC 30(b)(6) Pfeifer 7 03-08-99	06-1986	Drawing			Kardon Drawing No. 1403 3-1/8" Plunger-Ribbed
614	FPC 30(b)(6) Pfeifer 8 03-08-99	02-1991	Drawing			Federal Packaging Drawing No. PP-09 Air Expelling Plunger (M'T'L: HDPE)
615	FPC 30(b)(6) Pfeifer 9 03-08-99	06-09-86	Drawing			Kardon Purchase Material Specification Drawing for K Standard Plunger
616	FPC 30(b)(6) Pfeifer 11 03-08-99	06-12-86	Memo			Kardon Intra-Office Correspondence from Elston to Bamberger re: McCormick Plastic Tops and Plunger

617	FPC 30(b)(6) Pfeifer 12 03-08-99	07-25-86	Memo			Kardon Intra-Office Correspondence from Elston to Hale re: 3-1/8" Plunger
618	FPC 30(b)(6) Pfeifer 13 03-08-99	01-11-99	Purchase Order			Kardon Purchase Order without handwritten notes
619	FPC 30(b)(6) Pfeifer 15 03-08-99	06-1986	Drawing			Kardon Drawing No. 1403 3-1/8" Plunger-Ribbed
620	FPC 30(b)(6) Pfeifer 18 03-08-99		Brochure			Federal Packaging Corporation Product Brochure
621	FPC 30(b)(6) Pfeifer 29 03-08-99	06-11-97	Letter			Frank Foster to Theodore W. Olds re: USPN 5,628,433 to Research and USPN 4,934,570 to Bamberger
622	FPC 30(b)(6) Pfeifer 31 03-08-99	01-15-99	Memo			Memorandum from McGowan to Pfeifer re: Research Interrogatories Nos. 10 and 13
623	FPC 30(b)(6) Pfeifer 32 03-08-99	02-02-88	Memo			Kardon Intra-Office Correspondence from Elston to McGowan re: Curled Can with Plastic Plunger - Ship Test
624	FPC 30(b)(6) Pfeifer 33 03-08-99	02-11-88	Memo			Kardon Intra-Office Correspondence from Elston to McGowan re: Curled Can test
625	FPC 30(b)(6) Pfeifer 36 03-08-99	03-14-88	Memo			Kardon Intra-Office Correspondence from Mary E. Massey to Elston re: 95# Ring Results with handwritten notes

626	FPC 30(b)(6) Pfeifer 40 03-08-99	06/07-1998	Article			DeLorenzo, Josephine A. "New Tube Design Improves Productivity," <i>Adhesives & Sealants Industry</i> , Jun3/July 1998, pp. 52-53
627	FPC 30(b)(6) Pfeifer 47 03-08-99	06-11-97	Memo			David Binder to Loren Plotkin re: Research announcement of obtaining patent on #1040 Self Burping tube
628	FPC 30(b)(6) Pfeifer 59 06-30-99	08-27-87	Memo			Kardon IntraOffice Memo from Jim Wack to Andy McCowan re: McCormick Cartons Inventory
629	FPC 30(b)(6) Pfeifer 62 06-30-99	11-08-88	Memo			Kardon IntraOffice Memo from J. Thomas Elston to Eric Carlson re: 16-Hole/Hardee's
630	FPC 30(b)(6) Pfeifer 75 06-30-99	08-01-97	Letter			Frank Foster to Norman Pfeifer re: Research Plastic patents
631		08-17-99	Expert Report			Expert Report of Joseph G. Burgess
632			Expert Report			Rebuttal Expert Report of Bruce Correll
633			Expert Report			Expert Report of Bruce Correll dated March 8, 2006
634			Physical Exhibit			Fluent Cartridge and Plunger noted as Deposition Exhibits 3, 4 and 23

635			Physical Exhibit			Plunger with ribs for fluent cartridges
636			Physical Exhibit			Sealright Fluent Tube
						Federal Packaging notes that it may rely on any document on Research Plastic's Exhibit List
						Federal Packaging notes that it may rely on any document previously produced in this litigation as a rebuttal exhibit
						Federal Packaging notes that it may rely on any other rebuttal document

DAMAGES

Research is entitled by statute to damages adequate to compensate for the infringement by Federal. The damage award in this case should restore Research to a position it would have been in if Federal had not infringed Research's patents. In addition, interest should be added to each of these amounts.

Research is entitled to lost profits for the sales it would have made but for Federal's sale of the old style tube. As supported in the supplemental expert opinion of John Sase, and taking interest in account, these damages amount to:

\$722,860

Further, Research is entitled to the lost profits for the sales it would have made but for the infringement by Federal's sale of the new style tube. Again, taking interest into account, these damages as supported by the supplemental expert report of John Sase are:

\$2,427,519

In the event it is found that Research is not entitled to its lost profits, then a reasonable royalty for the sale of the old style tube, and interest, and again supported by Mr. Sase' supplemental opinion the amount of:

\$170,630

Further, a reasonable royalty for the sale of the new style tubes and as supported by Mr. Sase' supplemental opinion in the amount of:

\$573,010

Should it be found that the new style tube does not infringe the '499 under the doctrine of equivalents, Research should be awarded its lost profits for the first two years of sales of the new style tube, as Federal would not have been able to make these sales without its earlier infringement by the old style tube. As supported by the expert opinion of Mr. Sase, these damages amount to:

\$904,652

Further, Research is entitled to its lost profits for the first year of sale of ribless tubes by Federal to Coronado Labs in Florida as it only gained these sales by utilizing the infringing old style tubes to convince Coronado to allow Federal to have the contract. In the absence of this infringing use, Research would have gained these sales. As supported by the expert opinion of Mr. Sase, these damages amount to:

\$537,930

Also, the infringing sales by Federal have caused Research to have its price for the inventive tube erode. This price erosion amounts to at least one cent per tube. As supported by the supplemental opinion by Mr. Sase, these damages amount to:

\$1,632,548

Research also claims damages in an amount equal to the attorney fees and costs incurred during this litigation, which amount will be determined by proofs offered at trial.

Federal Packaging has willfully infringed the Research Plastics patents. Therefore, Research Plastics is entitled to treble damages. Research Plastics further asserts that this is

an exceptional case under 35 U.S.C. §285. Research Plastics is entitled to attorney fees, pre-judgment interest and costs, in addition to any damage award.

Defendant's Statement Of Damages

A. Federal contests Research's damage claims and states Research is entitled to no damages.

TRIAL

This controversy is to be resolved by a jury.

The estimated time of the trial is as follows: 3 days liability; 2 days damages

Defendant's Statement

A. Defendant Federal Package estimates a trial 3 to 4 days in length for liability.

SETTLEMENT

The parties have conferred and discussed whether it is possible to settle this matter on several occasions. Those discussions have not proven fruitful.

TRIAL BRIEFS, FINDINGS AND INSTRUCTIONS

The parties propose that trial briefs and requests for jury instructions will be filed on the day of trial, unless otherwise ordered by this Court.

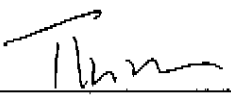
JUROR COSTS ATTRIBUTABLE TO PARTIES

The parties acknowledge that the Court may assess juror expenses under LR 38.3.

For Research Plastics, Inc.

CARLSON, GASKEY & OLDS, P.C.

By:



Theodore W. Olds, III (P42004)
Thomas M. McGuire (P17432)
400 West Maple Road, Suite 350
Birmingham, MI 48009
248-988-8360

Dated: March 14, 2006

For Federal Packaging Corp.

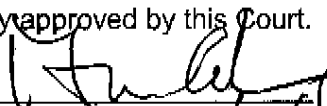
WARN, HOFFMAN, MILLER & LALONE

By:

Richard W. Hoffmann (P42352)
691 North Squirrel, Ste. 140
Auburn Hills, MI 48326
248-364-4300

Final Pretrial Order is hereby approved by this Court.

HON. AVERN COHN


3/14/06

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